

# EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

## *Radiocommunications (Cordless Communications Devices) Class Licence 2014* *Radiocommunications Act 1992*

### **Purpose**

The Australian Communications and Media Authority (the ACMA) has made the *Radiocommunications (Cordless Communications Devices) Class Licence 2014* (the Class Licence).

The Class Licence revokes and replaces the *Radiocommunications (Cordless Communications Devices) Class Licence 2001* (the 2001 Class Licence) without making any significant changes to the regulatory arrangements created by the 2001 Class Licence.

The ACMA has made the Class Licence because the 2001 Class Licence was due to 'sunset' (i.e. be automatically repealed) on 1 April 2015, by operation of Part 6 of the *Legislative Instruments Act 2003* (LIA).

Following review, and consultation as described below, the ACMA formed the view that the 2001 Class Licence was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. To preserve the effect of the 2001 Class Licence, the ACMA has therefore revoked the 2001 Class Licence before its sunset date and remade it with minor changes as the Class Licence.

### **Legislative Provisions**

Under subsection 132(1) of the *Radiocommunications Act 1992* (the Act), the ACMA may issue class licences by notice published in the *Gazette*. Section 133 of the Act allows the ACMA to include in a class licence such conditions as it thinks fit. Section 33(3) of the *Acts Interpretation Act 1901* provides that the power to make an instrument includes the power to vary or revoke the instrument.

### **Background**

It is generally a requirement of the Act that the operation of all radiocommunications devices within Australia be authorised by a radiocommunications licence.

A class licence is one type of licence available to authorise the operation of radiocommunications devices. It is an effective and efficient means of spectrum management for services where a limited set of common frequencies is employed, and equipment is operated under a common set of conditions. A class licence sets out the conditions under which any person is permitted to operate any device to which the class licence is applicable; it is not issued to an individual user, and does not involve the payment of licence fees. The licences are issued by the ACMA as legislative instruments and are registered on the Federal Register of Legislative Instruments (FRLI).

### **Operation**

The Class Licence authorises the operation of cordless communications devices, including handsets or land stations for cordless telephone services and radiocommunications devices that use Personal Handy Phone System (PHS) or Digital Enhanced Cordless Telecommunications (DECT) technologies.

Operation of the cordless communications device must be in accordance with the conditions set out in the Class Licence, including:

- a requirement that operation of the device is for private purposes only. It must not be used for the provision of commercial cordless telecommunications services to the public or for the provision of a connection under a wireless local loop arrangement. The term 'wireless local loop arrangement' is defined in the Class Licence;

- a requirement that devices operating under the Class Licence use only the frequencies specified in the Class Licence;
- compliance by land stations with the equivalent isotropically radiated power limits mentioned in Schedule 1 of the Class Licence;
- compliance with the relevant technical specifications listed in Schedule 2 of the Class Licence; and
- compliance with applicable radiocommunications standards made under section 162 of the Act.

## Consultation

Subsection 17(1) of the LIA requires that, before the ACMA makes a legislative instrument, it must be satisfied that any consultation that the ACMA considers is appropriate and reasonably practicable to undertake has been undertaken. Before revoking a class licence, the ACMA must cause to be published a notice on its website and in one or more forms that are readily accessible to the public; the notice must state that the ACMA proposes to revoke the licence, set out the licence, and invite interested persons to make representations about the proposed revocation of the notice (section 136 of the Act).

The ACMA published a consultation paper and draft instruments on its website between 12 December 2013 and 5 February 2014. The consultation paper explained the sunseting process and the ACMA's preliminary view that the existing arrangements under the 2001 Class Licence should be saved from automatic repeal and remade without any significant changes. Interested parties were invited to comment.

As required by section 136 of the Act, the ACMA also published a notice in the *Gazette* on 16 December 2013 advising that it proposed to revoke the 2001 Class Licence and remake it in substantially the same form.

The ACMA received 1 submission in response to the consultation paper and *Gazette* notice, which it took into account when making the Class Licence.

## Regulatory Impact

Under the Guidance Note *Sunsetting Legislation* published by the Office of Best Practice Regulation (OBPR) in March 2013, streamlined administrative processes apply to sunseting legislative instruments. As the ACMA has determined that the 2001 Class Licence was fit for purpose and should be remade without any significant changes, and has certified those matters to OBPR, no Regulation Impact Statement (RIS) is required in relation to the making of the Class Licence. (OBPR reference ID 2013/16210).

## Detailed Description of the Instrument

A detailed description of the Class Licence is set out in **Attachment A**.

## Documents Incorporated in the Instrument by Reference

The Class Licence incorporates by reference the following documents as in force from time to time or otherwise refers to them:

- > *Radiocommunications Act 1992*
- > *Radiocommunications Regulations 1993*
- > *Radiocommunications (Interpretation) Determination 2000*
- > *Radiocommunications Licence Conditions (Land Mobile Licence) Determination (No. 1) of 1997*
- > *Radiocommunications Standard (Cordless Telephone) No. 1 of 1997*
- > Radiocommunications Standard 302 (Cordless Telephones) (Revised 1991) (Statutory Rules 1991 No. 293)

- > *Ministerial Standard 302 (Statutory Rules 1987 No. 237)*
- > *Radiocommunications (Electromagnetic Radiation — Human Exposure) Standard 1999*
- > *Radiocommunications (Electromagnetic Radiation — Human Exposure) Standard 2001*
- > Radio Equipment and Systems Cordless Telecommunications — CT2 CAI — number TS 019 — 1993
- > Radio Equipment and Systems Cordless Telecommunications — DECT — number TS 028-1995
- > Radio Equipment and Systems Cordless Telecommunications — CT2 CAI — number TS 019 -1997
- > Radio Equipment and Systems Cordless Telecommunications — DECT — number TS 028-1997
- > Radio Equipment and Systems Cordless Telecommunications — Personal Handy Phone System (PHS) — number ACA TS 034-1997
- > Telecommunications Technical Standard (Customer Equipment for use with CT2 CA1 Cordless Telecommunications Systems — ACA TS 019 — 1997)
- > Radio Equipment and Systems Cordless Telecommunications — Digital Enhanced Cordless Telecommunications (DECT) — number ACA TS 028-1997

Acts and legislative instruments mentioned above can be found on the Australian Government's ComLaw website (<http://www.comlaw.gov.au/>).

Copies of the technical specifications mentioned above can be obtained from the SAI Global Limited website (<http://www.saiglobal.com>).

### **Statement of Compatibility with Human Rights**

As required by subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* a Statement of Compatibility with Human Rights has been prepared by the ACMA and is at **Attachment B**.

**ATTACHMENT A****DETAILS OF THE *RADIOCOMMUNICATIONS (CORDLESS COMMUNICATIONS DEVICES) CLASS LICENCE 2014*****Section 1 Name of Class Licence**

Section 1 provides that the Class Licence is the *Radiocommunications (Cordless Communications Devices) Class Licence 2014*.

**Section 2 - Commencement**

Section 2 states that the Class Licence will commence on the later of the day after it is registered and the day on which it is published in the *Gazette*. The notes to the section advise that all legislative instruments are registered on the Federal Register of Legislative Instruments (FRLI) and that both publication and registration must occur in order for the Class Licence to commence.

**Section 3 – Revocation**

Section 3 provides that the *Radiocommunications (Cordless Communications Devices) Class Licence 2001* is revoked.

**Section 4 – Definitions**

Section 4 defines terms used in the Class Licence.

The note under the definition of 'cordless communications device' advises that land stations which use a frequency greater than 857 MHz and not greater than 861 MHz are licensed individually under the Land Mobile PABX cordless telephone service licensing option provided for in the *Radiocommunications Licence Conditions (Land Mobile Licence) Determination (No. 1) of 1997*.

The note at the end of section 4 explains that expressions not defined in the Class Licence may be defined in the Act, the *Radiocommunications Regulations 1993* and the *Radiocommunications (Interpretation) Determination 2000*.

**Section 5 – Class licence—cordless communications devices**

Section 5 authorises any person to operate a cordless communications device under the Class Licence, subject to the conditions in the Class Licence. Subsection 5(3) provides that licensed apparatus (that is, apparatus authorised under a licence other than the Class Licence) which are operated for substantially the same purpose as would be authorised by the Class Licence are not included within the class of radiocommunications devices authorised by this Class Licence.

**Section 6 – Conditions—general**

Section 6 provides that the operation of a cordless communications device must be for private purposes only, and not for the provision of commercial cordless telecommunications services to the public or a connection under a wireless local loop arrangement. 'Wireless local loop arrangement' is defined in section 4 of the Class Licence.

Section 6 also states that land station devices must comply with the equivalent isotropically radiated power (EIRP) limits set out in Schedule 1 of the Class Licence.

**Section 7 – Conditions—technical requirements for 1.9 GHz band operation**

Section 7 applies to land stations or handsets which operate at a frequency greater than 1880 MHz and not greater than 1900 MHz, and which also have a device compliance day (ie, the day the device was manufactured, imported or modified, whichever is appropriate) before 1 September 2007. It provides that such devices must comply with the technical specification listed in Schedule 2 of the

Class Licence that was in effect immediately before the device compliance day for the device, and which is applicable to the device.

Section 7 also provides that a device must also comply with section 9 of the Class Licence if the device is described in subsection 9(1) of the Class Licence.

#### **Section 8 – Conditions—technical requirements for 861-865 MHz operation**

Section 8 applies to cordless communications devices which operate at a frequency greater than 861 MHz and not greater than 865 MHz. It provides that such devices must comply with the technical specification listed in Schedule 2 of the Class Licence that was in effect immediately before the device compliance day for the device, and which is applicable to the device.

#### **Section 9 – Conditions—PHS cordless communications devices**

Section 9 applies to devices which use PHS technology and have a device compliance day between 1 July 2001 and 31 August 2007 inclusive. It provides that, for control purposes, such devices must operate on the frequency 1896.650 MHz or 1898.450 MHz.

#### **Section 9A – Conditions—cordless telephone service**

Section 9A prescribes standards applicable to land stations and handsets used in a cordless telephone service that operate in any of the following frequency bands:

- greater than 1.7175 MHz and not greater than 1.7925 MHz
- greater than 30.0625 MHz and not greater than 30.3125 MHz
- greater than 39.7625 MHz and not greater than 40.250 MHz

The provisions of and notes to section 9A clarify the applicable standard for a range of device compliance days.

#### **Section 10 – Conditions—compliance with standards**

Section 10 requires compliance with the *Radiocommunications (Electromagnetic Radiation—Human Exposure) Standard 1999* for:

- handsets with a device compliance day between 15 December 1999 and 30 June 2001 inclusive; and
- land stations with a device compliance day between 1 February 1999 and 30 June 2001 inclusive.

For devices with a compliance day on or after 1 July 2001, section 10 requires compliance with any standard applicable to the device on its compliance day, as in force on that day.

Note 1 to section 10 clarifies that a device does not need to comply with a new or amended standard if the standards mentioned in the section are amended or replaced by another standard following the device compliance day.

Note 2 to section 10 clarifies that a 'standard' is a standard made under section 162 of the Act.

Note 3 to section 10 advises that devices operating under the Class Licence will not be protected from interference caused by other radiocommunications services operating in the same band. It also advises that system performance may be reduced due to potential interaction between different cordless devices and between cordless services and mobile services operating in adjacent bands. This is due to the uncoordinated nature of devices and shared spectrum arrangements of cordless device usage in the band, though the probability of such interaction is low because of the dynamic channel allocation techniques used by cordless device technology.

Note 4 to section 10 advises that the *Radiocommunications (Electromagnetic Radiation—Human Exposure) Standard 1999* was revoked by the *Radiocommunications (Electromagnetic Radiation—Human Exposure) Standard 2001*.

## **Schedules to the Class Licence**

### **Schedule 1 – Equivalent Isotropically Radiated Power (EIRP) limits**

Schedule 1 prescribes the maximum EIRP limits that land stations must comply with.

### **Schedule 2 – Technical specifications**

Schedule 2 specifies the technical specifications that must be complied with for land stations and handsets operating in the 1.9 GHz band (per section 8 of the Class Licence), and for cordless communications devices operating in the 861-865 MHz band (per section 8A of the Class Licence).

## Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### Radiocommunications (Cordless Communications Devices) Class Licence 2014

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### Overview of the Legislative Instrument

The *Radiocommunications (Cordless Communications Devices) Class Licence 2014* (the Class Licence) revokes and replaces the *Radiocommunications (Cordless Communications Devices) Class Licence 2001* (2001 Class Licence) without making any significant changes to the regulatory arrangements created by that instrument.

The Class Licence authorises any person to operate a cordless communications device, including land stations and handsets for cordless telecommunication services that use the frequencies specified in the Class Licence, and radiocommunications devices using technologies known as Digital Enhanced Cordless Telecommunications (DECT) and Personal Handy Phone Systems (PHS).

The Class Licence sets out the common set of conditions that cordless communications devices operating under the Class Licence must comply with.

#### Human Rights Implications

The Class Licence does not engage any of the applicable rights or freedoms.

#### Conclusion

The Class Licence is compatible with human rights as it does not raise any human rights issues.

#### Australian Communications and Media Authority